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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 CHARLES V. REED,

12 Plaintiff,

13 v.

14 STATE OF WASHINGTON, *et al.*,

15 Defendants.
16

CASE NO. C09-5677FDB/JRC

ORDER DIRECTING SERVICE
BY UNITED STATES
MARSHAL AND DIRECTING
THE MARSHALS TO INFORM
THE COURT WHEN THE
DOCUMENTS HAVE BEEN
MAILED

17 Plaintiff has been granted leave to proceed in forma pauperis. The United States
18 Marshal's Service attempted to serve defendants James Allen and Michael Hughes by mail. The
19 documents were returned unexecuted because of an "insufficient address." (Dkt. # 8 and 9).
20 Plaintiff has sent a letter to the court along with a summons and another Marshal's service form.
21 He asks that the Marshals again attempt to serve Michael Hughes (Dkt. # 13). The court will
22 attempt service by mail a second time. If service has not been accepted thirty days after it is
23 mailed the Marshals shall be directed to serve defendant Hughes in person and defendant Hughes
24 will show cause why he should not bear the expense incurred in serving him. The Marshal's
25 Office needs to inform the court of the date this attempt at service is mailed so this matter can be
26 tracked on the court's motion calendar.

1 Service of the complaint shall proceed as directed below:

2 (1) Service by United States Marshal.

3 It is hereby ORDERED that the United States Marshal shall send the following to
4 Defendant Hughes by first class mail: a copy of the Complaint and of this Order, two copies of
5 the Notice of Lawsuit and Request for Waiver of Service of Summons, a Waiver of service of
6 Summons, and a return envelope, postage prepaid, addressed to the Clerk's Office. All costs of
7 service shall be advanced by the United States. The Clerk shall assemble the necessary
8 documents to effect service.
9

10 (2) Response Required

11 Defendants shall have **thirty (30) days** within which to return the enclosed Waiver of
12 Service of Summons. Each defendant who timely returns the signed Waiver shall have **sixty**
13 **(60) days** after the date designated on the Notice of Lawsuit to file and serve an answer or a
14 motion directed to the complaint, as permitted by Rule 12 of the Federal Rules of Civil
15 Procedure.
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17 Any defendant who fails to timely return the signed Waiver will be personally served
18 with a summons and complaint, and may be required to pay the full costs of such service,
19 pursuant to Rule 4(d)(2). A defendant who has been personally served shall file an answer or
20 motion permitted under Rule 12 within **thirty (30) days** after service.
21

22 (3) Filing and Service by Parties, Generally.

23 All original documents and papers submitted for consideration by the court in this case,
24 and a duplicate of all such papers, are to be filed with the Clerk of this court. The originals and
25 copies of all such papers shall indicate in the upper right-hand corner the name of the Magistrate
26 Judge to whom the copies are to be delivered. The papers shall be accompanied by proof that

1 such documents have been served upon counsel for the opposing party (or upon any party acting
2 pro se). The proof shall show the day and manner of service and may be written
3 acknowledgment of service, by certificate of a member of the bar of this court, or by affidavit of
4 the person who served the papers.

5 (4) Motions.

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7 Any request for court action shall be set forth in a motion, properly filed and served. A
8 party must file and serve with the motion a supporting memorandum. The motion shall include
9 in its caption (immediately below the title of the motion) a designation of the Friday upon which
10 the motion is to be noted upon the court's calendar. That date shall be the third Friday following
11 filing of the motion (fourth Friday for Motions for Summary Judgment). All briefs and affidavits
12 in opposition to any motion shall be filed and served not later than 4:30 p.m. on the Monday
13 immediately preceding the Friday appointed for consideration of the motion. If a party fails to
14 file and serve timely opposition to a motion, the court may deem any opposition to be without
15 merit. The party making the motion may file, not later than 4:30 p.m. on the Thursday
16 immediately preceding the Friday designated for consideration of the motion, a response to the
17 opposing party's briefs and affidavits.
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19 (5) Motions for Summary Judgment

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21 If one of the parties files a motion for summary judgment pursuant to Federal Rules of
22 Civil Procedure 56, the opposing party should acquaint him/herself with Rule 56. Rule 56
23 requires a nonmoving party to submit affidavits or other evidence in opposition to a motion for
24 summary judgment if the moving party has shown the absence of issues of material fact and an
25 entitlement to judgment as a matter of law. A nonmoving party may not rest upon the mere
26 allegations or denials of prior pleadings. Rather, successful opposition to a motion for summary

1 judgment requires the nonmoving party to set forth, through affidavits or other evidence, specific
2 facts showing a genuine issue for trial. Failure by the nonmoving party to oppose a summary
3 judgment motion or to present counter evidence could result in the Court accepting the moving
4 party's evidence as the truth, and entering final judgment in favor of the moving party without a
5 full trial. Rand v. Rowland, 113 F.3d 1520 (9th Cir. 1997).


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7 (6) Direct Communications with District Judge or Magistrate Judge

8 No direct communication is to take place with the District Judge or Magistrate Judge with
9 regard to this case. All relevant information and papers are to be directed to the Clerk.

10 (7) Clerk's Action

11 The Clerk is directed to send a copy of this Order and of the General Order issued by the
12 Magistrate Judges to plaintiff.

13 DATED this 18th day of February, 2010.

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17 J. Richard Creatura
18 United States Magistrate Judge
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